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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:14257 of 1995

DATED:20-03-2006

Between:

Tenali Christopher, Divisional Manager,

Girijan Cooperative Corporation Ltd.,

Asifabad, Adilabad District.

..... PETITIONER

AND

1. Koneru Bhoomanna and another.

.....RESPONDENTS

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ORAL ORDER:

Questioning the award of the Industrial Tribunal-cum-Labour Court, Godavarikhani in I.D.No.334 of 1991 dated 21-12-1994, the present writ petition is filed by the employer, Divisional Manager, Girijan Cooperative Corporation Limited.

2. The first respondent was appointed as a salesman in the petitioner-Corporation in 1974. He was placed under suspension on 20-02-1983 and was issued charge sheet on 25-07-1983 containing the following charges:

a. CHARGE No.1: An amount of Rs.2,590-45 ps was outstanding against him after adjusting Rs.4,216-00 as on 3-11-1982. this was not accounted for either by way of stocks or by cash in spite of notice issued.

b. CHARGE No.2: A sum of Rs.15,000/- was paid to him towards purchase advance on 25-11-1982 which was also not accounted for either by way of cash or by way of stocks in spite of show cause notice issued.

c. CHARGE No.3: On enquiry he informed the office orally on 09-01-1983 that there 4 quintals of gum is in his area and the same will be brought to the godowns. But he did not bring the stocks even after arranging lorry twice.

d. CHARGE No.4: That he did not attend the office and explain the position of procurement from 09-01-1983 till date of his suspension."

3. First respondent submitted his explanation thereto contending that he had repaid a sum of Rs.4,216/- to Sri Sudershan, the then Cashier, but it was not accounted for and he had purchased gum of 13.99 quintals, handed over it to the Jannaram Depot, where he last worked, and that the cashier, Senior Store Assistant and Depot-Manager who were on inimical terms with him had colluded with each other and had got him involved in a false case. An enquiry was ordered, wherein the first respondent was held guilty and the charges being held proved, the petitioner was removed from service. The appeal preferred by him was also rejected. The petitioner approached the Tribunal under Section 2-A (2) of the Industrial Disputes Act. He examined himself as W.W.1 and marked W-1 to W-11 as exhibits. On behalf of the petitioner herein neither was any oral evidence adduced nor were any documents marked as exhibits. The Tribunal on a consideration of the evidence on record held that the

first respondent had placed cogent and convincing material and had rebutted the correctness of the allegations, and if the contents had not been correct, the petitioner ought to have been rebutted and clarified them with some relevant witness being examined. The labour Court took note of the circumstances that no witnesses had been examined and held that there was something fishy and that the hands of the persons named by the first respondent in his petition i.e., the cashier Senior Stores Assistant and Depot Manager were not clean. The Tribunal held that there was any amount of truth in the plea of the workman that he had been falsely involved. Accordingly, an award was passed setting aside the order of termination directing that the first respondent be appointed as salesman, however, 50% of the backwages were directed to be paid from 01-01-1992.

4. Sri N.Sreedhar Reddy, learned Standing Counsel for the petitioner, would submit that even if the petitioner had not produced any evidence, the labour Court could have passed an award only on the basis of the evidence available on record. Learned Standing Counsel would submit that as against the first charge wherein a sum of Rs.2,590-45 ps. is said to be outstanding, the documents marked on behalf of the first respondent would show that only a sum of Rs.2,218/- had been paid leaving a shortfall of Rs.372-45 ps. unexplained. In so far as the second charge of an advance of Rs.15,000/- not being accounted for, Sri N.Sreedhar Reddy, learned standing counsel, would submit that even according to Ex.W-6, the first respondent had repaid only Rs.5,000/- still leaving a sum of Rs.10,000/- unaccounted. With regard to the third charge, failure to return four quintals of gum, learned standing counsel would submit that Exs.W-4, W-5 and W-7 would show that the entire quantity of 4 quintals of gum had not been returned. According to the learned standing counsel, since the very evidence on record would clearly show that the first

respondent had not adduced evidence in support of his plea that the defalcated amount had been accounted for, the labour Court erred in holding that the evidence let in by the first respondent workman would prove otherwise.

5 . Sri Y.Ashok Raj, learned counsel for the first respondent, would however, submit that the oral evidence of the first respondent would show that as against the third charge of shortage of 4 quintals of gum, the petitioner had in fact returned 12 quintals which represented not merely 4 quintals which form part of the third charge but also the balance of Rs.10,000/- as advance under the second charge, and for the remaining Rs.5,000/- he had repaid the amount in cash. Learned counsel would submit that the first respondent's oral evidence along with the documents marked as exhibits would clearly established the falsity of the charges.

6 . It is well settled that the certiorari jurisdiction of this Court is supervisory and not appellate and this Court would not re-appreciate the evidence on record or the findings of the Tribunal. While Sri N.Sreedhar Reddy, learned standing counsel would submit that even on the findings on record, the first respondent had not explained the shortages, Sri Y.Ashok Raj would refer to the oral evidence to submit that the first respondent had indeed so explained. The award of the labour Court, no doubt, has not dealt with this aspect in detail. The conclusions of the Tribunal, however, are that the first respondent's contention that he was falsely implicated and that the other officers of the Depot had colluded against him was accepted. Since the Tribunal on the evidence on record has held that the charges leveled against the first respondent were false and that there was truth in his contention that the officers had colluded against him and since the petitioner herein has chosen not to adduce any evidence before the tribunal, either oral or documentary evidence, I see no reason to interfere with the award of the tribunal.

7. The writ petition fails and is accordingly dismissed. No order as to costs.

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20th March, 2006

SKM